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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/450,262	11/29/1999	DAVID E. HECKERMAN	1018.045US1	7390

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AMIN & TUROCY, LLP  
24TH FLOOR, NATIONAL CITY CENTER  
1900 EAST NINTH STREET  
CLEVELAND, OH 44114

EXAMINER

LASTRA, DANIEL

ART UNIT

PAPER NUMBER

3622

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/450,262	HECKERMAN ET AL.
	Examiner	Art Unit
	DANIEL LASTRA	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 8/26/02

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-4, 6-14 and 16-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4, 6-14, and 16-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

1. Claims 1-4, 6-14, and 16-26 have been examined.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 6-14, and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by McCollom et al (U.S. 6,343,274).

As per claim 1, McCollom et al teach:

A computer-implemented method comprising:

selecting an ad to be displayed on a web page as one of a plurality of ads within a current cluster, each of the plurality of ads having a selection probability *for being displayed* (see column 5, lines 5-62).

displaying the ad selected on the web page (see column 6, lines 61-67 – column 7, lines 1-18);

detecting activation of the ad displayed (see column 6, lines 61-67 – column 7, lines 1-18); and,

transmitting information to an entity associated with the ad upon detecting activation of the ad displayed, *the transmitted information comprising information regarding the current cluster* (see column 6, lines 61-67 – column 7, lines 1-19; column 8).

As per claim 2, McCollom et al teach:

The method of claim 1, further comprising displaying a web page associated with the entity associated with the ad (see column 8, lines 3-25).

As per claim 3, McCollom et al teach:

The method of claim 1, wherein the current cluster is one of a plurality of clusters, the plurality of clusters based on information provided by at least the entity (see column 5, lines 40-56).

As per claim 4, McCollom et al teach:

The method of claim 1, wherein detecting activation of the ad display comprises detecting clicking on of the ad displayed (see column 6, lines 61-67 – column 7, lines 1-19).

As per claim 6, McCollom et al teach:

The method of claim 1, wherein at least some of the plurality of ads are related to the entity for promoting a brand image of the entity (see column 5).

As per claim 7, McCollom et al teach:

The method of claim 1, wherein the entity comprises one of: a vendor, an advertiser, an organization, and a business (see column 5, lines 40-50).

As per claim 8, McCollom et al teach:

A computer-implemented method comprising:

detecting activation of a display message, the display message associated with a current cluster and having a selection probability within the current cluster for being displayed (see column 6, lines 61-67 – column 7, lines 1-19);

transmitting information to an entity associated with the display message upon detecting activation of the display message, the information comprising information regarding the current cluster (see column 6, lines 61-67 – column 7, lines 1-19; column 8).

As per claim 9, McCollom et al teach:

The method of claim 8, wherein the current cluster is one of a plurality of clusters, the plurality of clusters based on information provided by at least the entity (see column 5, lines 40-67 – column 6).

As per claim 10, McCollom et al teach:

The method of claim 8, wherein the entity comprises one of: a vendor, an advertiser, an organization, and a business (see column 5, lines 40-50).

Claim 11 is written as a machine-readable medium but contains the same limitation as claim 1, therefore the same rejection is applied.

Claim 12 is written as a machine-readable medium but contains the same limitation as claim 2, therefore the same rejection is applied.

Claim 13 is written as a machine-readable medium but contains the same limitation as claim 3, therefore the same rejection is applied.

Claim 14 is written as a machine-readable medium but contains the same limitation as claim 4, therefore the same rejection is applied.

Claim 16 is written as a machine-readable medium but contains the same limitation as claim 6, therefore the same rejection is applied.

Claim 17 is written as a machine-readable medium but contains the same limitation as claim 7, therefore the same rejection is applied.

Claim 18 is written as a machine-readable medium but contains the same limitation as claim 8, therefore the same rejection is applied.

Claim 19 is written as a machine-readable medium but contains the same limitation as claim 9, therefore the same rejection is applied.

Claim 20 is written as a machine-readable medium but contains the same limitation as claim 10, therefore the same rejection is applied.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCollom et al (U.S. 6,343,274).

As claim 21, McCollom et al do not expressly teach, the method of claim 1, further comprising dynamically tailoring the web page based upon the transmitted information. However, lines 3-55 of column 8 teach that upon detecting that the ad displayed has been activated, the consumer program sends statistical information, (such as the number of times the user has clicked on the advertisement to obtain further information from the merchant website), to a commerce server. Once the consumer has sent all the statistical information captured from the consumer interaction, the consumer requests and receives from the commerce server, all advertisements from each merchant and in each category. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the consumer browser would be dynamically tailored to the moment the commerce server receives the statistical information and from this information, the server would customize the advertisements that are sent to the consumer. This way each consumer would receive only advertisement that is better targeted to his/her needs.

As per claim 22, McCollom et al do not expressly teach, the method of claim 1, further comprising dynamically tailoring the ad displayed base upon the transmitted information. However, lines 3-55 of column 8 teach that upon detecting that the ad displayed has been activated, the consumer program sends statistical information, (such as the number of times the user has clicked on the advertisement to obtain further information from the merchant website), to a commerce server. Once the consumer has

sent all the statistical information captured from the consumer interaction, the consumer requests and receives from the commerce server, all advertisements from each merchant and in each category. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the consumer browser would be dynamically tailored to the moment the commerce server receives the statistical information and from this information, the server would customize the advertisements that are sent to the consumer. This way each consumer would receive only advertisement that is better targeted to his/her needs.

As per claim 23, McCollom et al do not expressly teach, the method of claim 8, further comprising dynamically tailoring a display based upon the information regarding the current cluster. However, lines 3-55 of column 8 teach that upon detecting activation of the ad displayed, the consumer program sent statistical information, (such as the number of times each advertisement for each merchant in each category is seen), to a commerce server. Once the consumer has sent all the statistical information captured from the consumer interaction, the consumer requests and receives from the commerce server, all advertisements from each merchant and in each category. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the consumer browser would be dynamically tailored to the moment the commerce server receives the statistical information and from this information, the server would customize the advertisements that are sent to the consumer. This way each consumer would receive only advertisement that is better targeted to his/her needs.

As per claim 24, McCollom et al do not expressly teach, the method of claim 8, further comprising dynamically tailoring the display message based upon the information regarding the current cluster. However, lines 3-55 of column 8 teach that upon detecting activation of the ad displayed, the consumer program sent statistical information, (such as the number of times each advertisement for each merchant in each category is seen), to a commerce server. Once the consumer has sent all the statistical information captured from the consumer interaction, the consumer requests and receives from the commerce server, all advertisements from each merchant and in each category. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the consumer browser would be dynamically tailored to the moment the commerce server receives the statistical information and from this information, the server would customize the advertisements that are sent to the consumer. This way each consumer would receive only advertisement that is better targeted to his/her needs.

As per claim 25, McCollom et al do not expressly teach, the medium of claim 11, the method further comprising automatically changing at least one of the web page and the ad displayed based upon the information regarding the current cluster. However, lines 3-55 of column 8 teach that upon detecting activation of the ad displayed, the consumer program sent statistical information, (such as the number of times each advertisement for each merchant in each category is seen), to a commerce server. Once the consumer has sent all the statistical information captured from the consumer interaction, the consumer requests and receives from the commerce server, all

advertisements from each merchant and in each category. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the consumer browser would be dynamically tailored to the moment the commerce server receives the statistical information and from this information, the server would customize the advertisements that are sent to the consumer. This way each consumer would receive only advertisement that is better targeted to his/her needs.

As per claim 26, McCollom et al do not expressly teach the medium of claim 18, the method further comprising automatically changing at least one of a display and the display message based upon the information regarding the current cluster. However, lines 3-55 of column 8 teach that upon detecting activation of the ad displayed, the consumer program sent statistical information, (such as the number of times each advertisement for each merchant in each category is seen), to a commerce server. Once the consumer has sent all the statistical information captured from the consumer interaction, the consumer requests and receives from the commerce server, all advertisements from each merchant and in each category. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the consumer browser would be dynamically tailored to the moment the commerce server receives the statistical information and from this information, the server would customize the advertisements that are sent to the consumer. This way each consumer would receive only advertisement that is better targeted to his/her needs.

***Response to Arguments***

4. The Applicant's arguments filed 08/26/02 have been fully considered but they are not persuasive.

The Applicant argues that McCollom does not teach of the plurality of ads or display messages having a selection probability for being displayed as recited in the subject claims.

The Examiner answers that this feature is deemed to be inherent to the McCollom system as columns 7 and 8 show that McCollom captures statistical information for each advertisement the consumer has viewed, such as what share of ad clicks does certain merchant get compared to other merchants, and uses this information to calculate which advertisements should be sent to the consumer based on probability. The advertisement that is displayed to the customers would have a selection probability with a bias of showing certain advertisements over others based on consumer statistical information.

The Applicant argues that McCollom does not teach or suggest transmitting information regarding the current cluster associated with the ad or display message.

The Examiner answers that this feature is deemed to be inherent to the McCollom system as lines 3-25 of column 8 teach that the consumer program sends statistical information for the number of times each advertisement for each merchant in each category is seen, the percentage of advertisements viewed and the total amount of time spent viewing the advertisements. Once the consumer program has sent all the statistical information captured from the consumer interaction, the consumer program requests and receives from the commerce server, all advertisement for each merchant and in each category. Therefore, it would be inherent that the McCollom system

transmits information about the current cluster or categories of advertisements viewed by the consumers.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 7:30-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

D.L.

Daniel Lastra

November 12, 2002

*M. Kemp*

MELANIE A. KEMP  
PRIMARY EXAMINER